

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BERKELEY HEARTLAB, INC.,

Plaintiff,

v.

BERKELEY HEART EUROPE A.S., et al.,

Defendants

No. C-07-2076 MMC

**ORDER REQUIRING DEFENDANT
CHARLES L. DIMMLER III TO SHOW
CAUSE WHY ACTION SHOULD NOT BE
REMANDED**

Before the Court is defendant Charles L. Dimmler III's Notice of Removal, filed April 12, 2007, in which defendant asserts the district court has diversity jurisdiction over the instant action under 28 U.S.C. § 1332(a).

In its Notice of Removal, defendant asserts, without explanation, that the amount in controversy exceeds \$75,000. In its complaint, plaintiff seeks only declaratory relief, and does not include any allegations from which the Court can reasonably infer that the amount in controversy exceeds \$75,000. As a consequence, defendant has failed to make the requisite showing that the amount in controversy exceeds \$75,000. See Gaus v. Miles, 980 F.2d 564, 567 (9th Cir. 1992) (holding defendant in removed action "bears the burden of actually proving the facts to support jurisdiction, including the jurisdictional amount").

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1 Accordingly, defendant is hereby ORDERED TO SHOW CAUSE, in writing no later
2 than May 18, 2007, why the instant action should not be remanded for lack of subject
3 matter jurisdiction.

4 **IT IS SO ORDERED.**

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6 Dated: May 3, 2007

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8 MAXINE M. CHESNEY
9 United States District Judge
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